

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BILLIE WEST,)
)
)
Plaintiff,)
)
-vs-) Case No. CIV-09-528-F
)
OKLAHOMA COUNTY JAIL)
and OKLAHOMA COUNTY)
SHERIFF OFFICE,)
)
Defendants.)

ORDER

On May 29, 2009, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation, wherein he recommended the dismissal without prejudice of plaintiff's civil rights action under 42 U.S.C. § 1983 on the basis that defendants, Oklahoma County Jail and Oklahoma County Sheriff Office, lack the capacity to be sued. In the Report and Recommendation, Magistrate Judge Bacharach stated that in an unsigned document attached to plaintiff's complaint, plaintiff suggests that a medical doctor neglected to provide proper medical treatment to him and that if plaintiff intended to sue the doctor, who is not identified as a defendant, rather than the jail or the sheriff's office, plaintiff's pleading defect could be cured. Therefore, Magistrate Judge Bacharach also recommended that the court should allow plaintiff to amend his complaint within 20 days of an order adopting the Report and Recommendation.

In the Report and Recommendation, Magistrate Judge Bacharach advised plaintiff of his right to object to the Report and Recommendation by June 18, 2009. On June 15, 2009, plaintiff filed a Motion to Amend. In his motion, plaintiff requests

to add “the Doctor(s)” for the Oklahoma County Jail and Correctional Health Care Management as defendants. Plaintiff also requests the court to remove the Oklahoma County Jail and the Oklahoma County Sheriff Office as defendants.

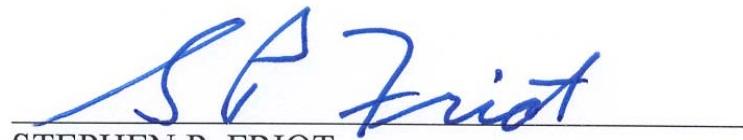
It appears to the court from the filing of plaintiff’s motion that he does not intend to object to the Report and Recommendation and seeks to cure the deficiencies of his complaint. Because plaintiff appears not to object to the Report and Recommendation and the court concurs with the Report and Recommendation in its entirety, the court adopts, accepts and affirms the Report and Recommendation of Magistrate Judge Bacharach.

The court also concludes that plaintiff’s motion to amend should be granted. The court shall allow plaintiff to file an amended complaint which names the doctor(s) for the Oklahoma County Jail and for the Correctional Health Care Management as defendants rather than the Oklahoma County Jail and Oklahoma County Sheriff Office. The plaintiff shall file his amended complaint with the court within 20 days of the date of this order. The plaintiff’s failure to file an amended complaint within the 20 days shall result in the court entering a judgment dismissing plaintiff’s civil rights action under 42 U.S.C. § 1983 without prejudice.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Robert E. Bacharach on May 29, 2009 (doc. no. 7) is **ACCEPTED**, **ADOPTED** and **AFFIRMED**. Plaintiff’s Motion to Amend, filed June 15, 2009 (doc. no. 8), is also **GRANTED**. Plaintiff’s civil rights action under 42 U.S.C. § 1983 is **DISMISSED WITHOUT PREJUDICE**. The dismissal without prejudice, however, is with leave to file an amended complaint. Plaintiff shall file, within 20 days of the date of this order, an amended complaint which names the doctor(s) for the Oklahoma County Jail and Correctional Health Care Management as defendants

rather than the Oklahoma County Jail and Oklahoma County Sheriff Office. The plaintiff's failure to file with the court an amended complaint shall result in the court entering a judgment dismissing plaintiff's civil rights action under 42 U.S.C. § 1983 without prejudice.

DATED June 18, 2009.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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